

Notice of Allowability

Application No.

10/073,334

Examiner

Anish Gupta

Applicant(s)

SOLDIN, STEVEN J.

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-1-06.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

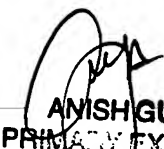
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


ANISH GUPTA
PRIMARY EXAMINER

DETAILED ACTION

The following is an examiner's statement of reasons for allowance:

1. The claims are drawn to an immunophilin, comprising a protein with the following properties:

- (i) a protein of 8.4kDa mass;
- (ii) isolated from the soluble cytoplasm of lymphoid tissue
- (iii) the N-terminal the N-terminal first 23 amino acid sequence is:

Met-Gln-Ile-Phe-Val-Lys-Thr-Leu-Thr-Gly-Lys-Thr-Ile-Thr-Leu-Glu-Val-Glu-Pro-Ser-Asp-Thr-Ile (Seq. ID No. 1)

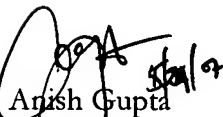
(iv) capable of specifically binding FK-506, rapamycin, or pharmacologically active metabolites thereof or pharmacologically active derivatives of rapamycin, but not cyclosporins. The claims therefore require that the molecular weight of the protein be 8.4kDa and the first twenty three amino acid correspond to the sequence MQIFVKTLTGKTITLEVEPSDTI.

The Closest prior art of Wang et al. teach a peptide of the sequence MQIFVKTLTGKTITLEVEPSDTIENVKAKI (See page 482). This amino acid sequence is similar to the claimed invention in that it contain the first twenty three amino acids, but also has the While this sequence contains the first twenty three amino acids, the sequence does not meet the limitations of the claims because the molecular weight cited by the prior art for the sequence is 8589 daltons (8.589Kda) (see page 481). The molecular weight differs from the claimed weight range by 189 daltons. In order to arrive at the claimed molecular weight range and the claimed peptide, one would have to cleave amino acids of the C-terminal end. The prior art does not provide any suggestion or motivation to modify the prior art sequence at the C-terminal end. Thus, the claimed invention is both novel and unobvious over the prior art of record.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can normally be reached on (571) 272-0562. The fax phone number of this group is (571)-273-8300.


Anish Gupta
Patent Examiner